

May 28, 1996

Chairman John Howe  
Commissioner Mary Clark Webster  
Commissioner Janet Gail Besser  
Department of Public Utilities  
100 Cambridge Street, 12th Floor  
Boston, MA 02202

Re: Investigation by the Department of Public Utilities upon its Own Motion Commencing a Notice of Inquiry/Rulemaking, pursuant to 220 CMR Section 2.00 et seq., Establishing the Procedures to be followed in Electric Industry Restructuring by Electric Companies subject to G.L. c. 164.  
DPU 96-100.

Dear Chairman Howe and Commissioners Webster and Besser:

The New England regional office of the United States Environmental Protection Agency ("EPA-New England") appreciates this opportunity to offer comments on the Department of Public Utilities' ("DPU") proposed rules for the restructuring of the electric industry. I apologize that these comments are being submitted late.

EPA strongly supports the ongoing regulatory reforms at the federal and state levels to enhance competition within the electric industry. We believe, however, that it is critical that such restructuring not be accomplished by sacrificing the environmental gains we have made in recent years. Emissions from the electric industry substantially impact the New England environment. Pollution emitted by fossil fuel-fired plants is the primary cause of acid deposition and also contributes to the high mercury levels in the Northeast's rivers, streams and lakes. Power plants emit 33% of the smog-causing nitrogen oxides ("NO<sub>x</sub>") emissions nationwide (31% in Massachusetts). Power plant emissions are also responsible for approximately one-third of nation's anthropogenic carbon dioxide emissions, a major factor in global climate change. In light of the continuing summertime reoccurrence of unhealthy ozone levels in New England, the damage to our ecosystems and health from acid and mercury deposition, and the global impacts on climate change, it is critical that the regulatory framework for a restructured utility industry promote progress toward achievement of clean, healthy air in New England.

I am therefore pleased that the Massachusetts DPU has recognized the need to ensure that its economic regulatory policies are consistent with the efforts of state and federal environmental regulators to reduce overall emissions from the utility industry. While EPA is interested in further details, EPA supports DPU's

recognition of the importance of promoting both utility-sponsored energy efficiency programs and renewable energy investments, at least until such programs can compete without market barriers or impediments. EPA also agrees with DPU that additional pollution reductions will be necessary from utilities in order to bring New England's air quality into attainment with the Clean Air Act's health-based ambient air quality standards.

More specifically, EPA provides the following comments on DPU's proposed rule:

**Energy Efficiency:** Energy efficiency programs can not only lower costs to consumers, but can also lessen the environmental impact of power generation. Under the proposed rule, each Distribution Company is required to file an Energy Efficiency Plan setting forth a strategy to perform a gradual transition over five years from traditional electric company-sponsored demand-side management (DSM) programs to a market-driven approach. This planning approach may encourage a thoughtful transition to promotion of an energy efficiency service industry. EPA suggests that DPU consider adopting a mechanism in the rule which allows an assessment after several years of the effectiveness of the transition (i.e., has an energy efficiency service industry successfully developed?). The phasing out of traditional utility-sponsored programs should be conditioned on the growth of market-driven measures.

**Renewable Energy Resources:** As many nuclear power plants near the end of their expected lives, New England can expect to see significant changes in its profile of electricity generation. In order to continue the region's progress toward improving air quality, EPA believes that a significant portion of electricity in the future must come from renewable energy resources, particularly as nuclear generation declines. DPU's proposed Renewables Fund reflects a substantial commitment by the DPU toward increasing renewable energy's share of the generation mix in Massachusetts. Part of DPU's vision of the Renewables Fund is that some customers, given the choice, would choose to pay slightly more to buy "greener" energy. EPA agrees that the ability of customers to choose to buy electricity from renewable energy resources, with the added help (at least initially) of funds from the Renewables Fund, could significantly enhance the ability of renewables to create a market niche.

**Utility Emission Reductions:** In order for the air quality in the Northeast to meet the health-based standard for ground-level ozone, significant additional NO<sub>x</sub> reductions from power plants in this region of the country will be

necessary. Massachusetts and other Ozone Transport Commission ("OTC") states have already agreed to secure certain emission reductions through a NO<sub>x</sub> trading program in accordance with the OTC NO<sub>x</sub> Memorandum of Understanding. EPA expects that additional reductions will be obtained as a result of the Ozone Transport Assessment Group ("OTAG") discussions, in which EPA is working with representatives from the 37 eastern-most states to reach consensus on the best control strategy. OTAG is considering a region-wide "cap-and-trade" program for NO<sub>x</sub> emissions which would obtain reductions between 55 to 85% from 1990 levels. If OTAG does not succeed in reaching consensus on a control strategy, EPA is prepared to establish a NO<sub>x</sub> cap-and-trade program in the OTAG states through a federal regulatory mechanism.

In its preamble to its proposed rules, DPU seeks feedback on its support for a "process where an existing generating unit would have to achieve compliance with new source performance standards within three years of its original retirement date if it will operate past that date" (p. 37). EPA believes that such an "Old Source Review" approach has substantial merit. EPA would be interested in discussing this possible approach further with DPU, DEP and other interested parties. An important consideration is the relationship between this program and any possible NO<sub>x</sub> cap-and-trade program that might be set up.

Restructuring the electric industry provides an opportunity to institute not only sound economic policies, but also wise environmental policies. Restructuring could have an impact on the environment for decades to come. We appreciate the DPU's efforts to ensure that that impact is a positive one.

Thank you again for this opportunity to provide input to the task of restructuring Massachusetts' utility industry in an environmentally sound fashion.

Sincerely,

John P. DeVillars  
Regional Administrator